

## DECISION MEMO

### **Stillwater Mining Company's Blitz Ridge - 2014 Surface Exploration Drilling Plan of Operations for Mineral Exploration**

United States Department of Agriculture, Forest Service  
Custer Gallatin National Forest, Beartooth Ranger District  
Stillwater County, Montana

Township 5S, Range 15E, Sections 24 and 25 and Township 5S, Range 16E, Sections 29 and 30, PMM  
June 2014

### **BACKGROUND**

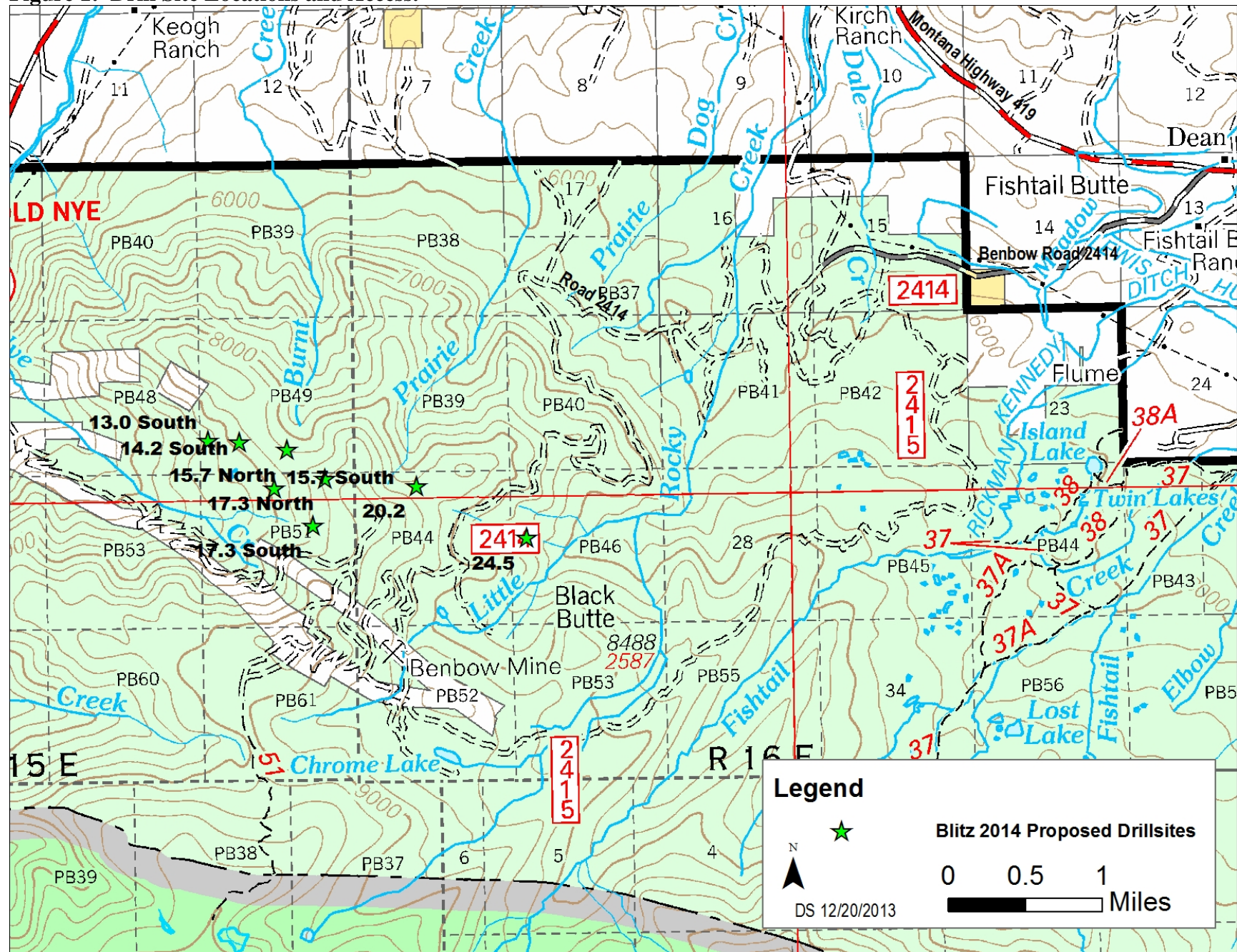
The Stillwater Complex is a large mineral deposit containing iron, copper, nickel, chromium, gold, silver, and platinum group elements. There have been numerous mineral development projects in the Stillwater Complex since the late 1800's, including mining and exploratory mapping and drilling in the Little Rocky Creek drainage (Czamanske and Zientek 1985). Portions of the Little Rocky Creek drainage are referred to as the Benbow area, named after T.C. Benbow, who led chromite mining efforts in the early 1900's. The Benbow area is approximately four miles southwest of Dean, Montana. During World War II, mining in the Benbow area resulted in development of a mine, mining camp, and concentration plant. Since that time, several companies have conducted surface geologic mapping, soil sampling, geophysical data collection, and drilling in this portion of the Stillwater Complex. Today, Stillwater Mining Company (SMC) mines platinum and palladium at the nearby Nye mine, a few miles west of the Benbow area.

In December 2013, SMC submitted the Blitz Ridge - 2014 Surface Exploration Drilling Plan of Operations for Mineral Exploration to the US Forest Service and Montana Department of Environmental Quality (MDEQ). SMC's Blitz Ridge - 2014 Surface Exploration Drilling Plan of Operations for Mineral Exploration proposes exploratory drilling in an area designated as Management Area E in the 1986 Custer National Forest Land and Resource Management Plan (*Custer Forest Plan*). Some helicopter use is proposed in Forest Plan Management Area B. The Management Area E goal is "*To facilitate and encourage the exploration, development and production of energy and mineral resources from the National Forest System lands.*" The Management Area B goal is "*To provide for the continuation of livestock grazing, implementation of intensive range management systems and the facilitation of minerals and energy development with consideration of other resource needs.*"

### **PROPOSED ACTION**

The Blitz Ridge - 2014 Surface Exploration Drilling Plan of Operations for Mineral Exploration (referred to hereafter as Plan of Operations) describes the proposed mineral exploration and related environmental protection requirements. The Plan of Operations is included as Decision Memo Appendix A. The Plan of Operations also includes four appendices which are not specifically included with this Decision Memo, but are contained in the Project Record. Plan of Operations Appendices A, B, and C are project-specific vegetation and wildlife surveys and Plan of Operations Appendix D is a drill site location topographic map. SMC has proposed exploratory drilling at eight sites with up to five separate drill holes at each location (Figure 1).

**Figure 1: Drill Site Locations and Access.**



A complete description of proposed activities is included in the Plan of Operations, which is Appendix A to this Decision Memo. Following is a summary of the Plan of Operations:

SMC has designed the Blitz Ridge Exploration Drilling Program to evaluate Platinum Group Metal potential, as well as to assist in the planning and design of the 5000E Footwall Lateral being driven by the Tunnel Boring Machine from existing agency-approved workings at the Stillwater Mine. A similar drilling program was approved in late 2012 and implemented in 2013. Depending upon the results of the Blitz Ridge 2014 exploratory drilling program, SMC has indicated that possible future mine development and implementation has the potential to extend operations of the Stillwater Mine by up to 25 years.

SMC would be targeting two holes at each of the eight drill sites, but this could increase up to five holes per site, depending on materials encountered and/or drilling results. Drill hole depths could vary from 1,000-feet up to 6,000-feet. Depending on the availability of drilling equipment, up to three drill rigs at one time would operate concurrently or individually. The drill(s) would be operated 24 hours per day, seven days a week requiring up to twelve persons working at any one time in the area through October 2014. No mining, milling, or permanent facilities are proposed as part of this Plan of Operations.

**Drilling activities:** Depending on site characteristics, minor tree removal, and levelling could be necessary at drill sites to accommodate proper orientation of the drill rig and provide for safe operation of the helicopter. Whenever possible, felling of healthy cone-bearing whitebark pine trees would be avoided. A mini-excavator and/or skid-steer would be flown into each drill site for pad and sump construction. Some work would also be completed by hand. As necessary, a drilling platform would be constructed consisting of soil borrow material, cut logs or supplied timbers covered by planking. No treated wood would be used at any time. Drill Sites would be no larger than 40 ft. by 40 ft. for a total maximum disturbance area of approximately 0.04 acres per drill site, or 0.3 acres for all eight proposed drill sites.

Water would be needed at each drill site to cool the drill bit and flush rock cuttings from the drill hole. Drilling fluids and water would be contained in portable plastic tanks. Water for drilling purposes would either be supplied from adjacent surface water sources or transported in a tank to a location near the site where it would then be pumped or gravity fed via a hose to the drill sites. SMC has proposed that water for the 13.0S, 14.2S, 15.7S, 15.7N, 17.3S, and 17.3N drill sites would be sourced from either Nye Creek and/or a nearby groundwater springs and seeps; drill site 20.2 water would be sourced from Burnt Creek; and 24.5 would be sourced from either Limestone Spring and/or nearby groundwater springs and seeps. Water use would be in compliance with applicable Montana State Law.

At each drill site, a cascading system of multiple sumps, the largest being a nominal, 8' wide x 10' long x 5' deep, would be constructed down-gradient of the drill pad for water clarification and for the containment and eventual disposal of drill cuttings. Excess clarified water not recycled back into the drilling process or infiltrated into the ground would overflow and percolate into the forest floor and/or into the subsurface under controlled circumstances that do not result in soil erosion. There would be no direct discharge into streams, wetlands, or other surface waters. In the event cuttings sump(s) could not be constructed as a result of site conditions, SMC would use portable tanks. If portable tanks are used, SMC would transport drill cuttings back to the Stillwater Mine for disposal in the existing Tailings Impoundments.

Drillings supplies, additives, fuels, etc. would all be maintained in covered, secondary containment facilities to prevent accidental releases. SMC would provide a complete list and Materials Safety Data Sheets (MSDS) for all drilling fluids, fuels, lubricants, and other potentially hazardous materials to be used on the project sites.

**Equipment and personnel transport:** Drill rigs, personnel, and supplies would be transported to drill sites using helicopters. SMC proposes to use five helipads to stage and transport supplies, materials, core, and personnel, to and from the drill pads: 1) the Stillwater Mine Helipad, 2) the Hertzler Tailing Impoundment, 3) the 5900W Portal Lay-down Area, 4) the Beartooth Ranch, and/or 5) the Stratton Ranch. Use of the Stillwater Mine Helipad would be limited. Rather, SMC proposes to locate temporary helipads at the Hertzler Tailing Impoundment, 5900W Portal Laydown area, Beartooth Ranch, and/or the Stratton Ranch away from the Stillwater River. Personnel would also occasionally travel to the drill site by driving vehicles on existing roads and walking from road locations to drill sites.

At the start and again at the end of the field season the Benbow Mill Area would be used as a staging area to move the drill rigs and supporting infrastructure to and from drill sites. During the drilling season itself, larger helicopters would be used periodically to move drill rigs between the different drill sites within the project area. SMC anticipates that up to twelve helicopter trips would be necessary each time a drill rig and the associated infrastructure is mobilized to a new drill site.

When the drill rigs are at the drill sites and operating, a helicopter would be used up to 5 times each day, 7 days a week to transport personnel, supplies, and materials from the Helipad(s) to each drill site and vice-versa. Additional helicopter use may be required due to unforeseen events, such as drill rig mechanical problems or medical emergencies. Contractors supporting the project would be expected to secure lodging in nearby towns. There would be no camping on or near the project sites except in the event of an emergency or if weather precludes safe helicopter use to transport workers to/from the site.

Where necessary, a temporary helipad would be placed in close proximity to the drill sites. When possible, helipads would be located in areas where minimal tree and brush removal would be necessary. There would be no ground disturbance proposed with the temporary helipads. If necessary, some tree cutting and clearing may occur. Existing woody debris, cut timber, and/or untreated wooden planks/timbers could also be used to assist in providing a level area upon which a landing pad could be established.

**Reclamation and monitoring:** Reclamation at disturbed sites would commence as soon as testing or data collection activities cease at those locations. Upon drilling completion, each drill hole would be backfilled with bentonite to within 6-10 feet of the surface and the last 6-10 feet would be cemented per Montana Department of Environmental Quality (MDEQ) requirements. Metal drill casing would then be pulled or cut off below ground level. During reclamation, all other materials, supplies, and associated items transported to the drill sites would be removed and appropriately managed. After general site cleanup, excavations would be backfilled with salvaged soil and organic material; subsoil material first, followed by organically enriched topsoil and then vegetation and other organic materials. Fill materials would be mounded slightly (2 to 3 inches) above ground surface to allow for future settling. The sites would be re-contoured to prevent erosion and mimic, as closely as possible, the original surface configuration. All planking and timbers would be removed by helicopter and remaining woody debris spread around the site to assist with reclamation activities. Compacted areas would be scarified and reseeded or otherwise reclaimed if determined necessary by the Forest Service. Only certified weed-free native seed would be used.



Any damage to Forest Service roads, ditches, trails, or associated drainage features (water bars, ditches, culverts, etc.) resulting from exploration activities and/or associated travel by Stillwater Mine personnel and/or contractors would be repaired by Stillwater to a functional condition as specified by the Forest Service.

In the event that weather or snowfall precludes complete reclamation, SMC would fill in surface voids and conduct necessary interim reclamation on these sites to address any potential spring runoff or erosion issues. Final reclamation would then be completed the following summer. Disturbed areas would be monitored for up to three years to ensure 1) erosion control effectiveness; 2) that no noxious weeds are present; and 3) native vegetation re-establishment. To financially ensure that reclamation and monitoring occur, SMC would be required to post a reclamation bond specific to this project. This would include bond amounts necessary to remove equipment from the sites, conduct reclamation, and monitor and treat noxious weeds. This bond would be held in trust by MDEQ and the USFS until reclamation and monitoring items are completed and reclamation is deemed successful. Additional specific reclamation measures are further detailed in the Plan of Operations, which is included as Decision Memo Appendix A.

## **PURPOSE AND NEED**

The purpose for Forest Service action is the December 10, 2013 submission of SMC's Blitz Ridge - 2014 Surface Exploration Drilling Plan of Operations. The need for action is the Forest Service's responsibility to approve or require modifications to the Plan of Operations in accordance with Federal mining and environmental law. SMC has proposed to use National Forest System lands in connection with operations authorized by the United States Mining laws (30 USC 21-54) which confer a statutory right to enter public lands to search for minerals. In accordance with the Code of Federal Regulations (CFR) at Title 36, Part 228a, the Forest Service is required to analyze the Plan of Operations in determining the reasonableness of requirements for surface resource protection.

## **DECISION**

I have decided to approve exploration activities on the Custer National Forest, as described above under the "Proposed Action" and further detailed in SMC's Plan of Operations (Decision Memo Appendix A) with modifications. These modifications are mitigation measures that are considered "Conditions of Approval" for this Plan of Operations. Conditions of approval are categorized as general conditions or by issue area. The conditions of approval listed in this Decision Memo are required changes/modifications/special mitigations that are hereby incorporated into Section VI.A. of the Plan of Operations (see Decision Memo Appendix A).

### **General Conditions of Approval:**

1. **Modifications:** Any modifications to this Plan of Operations proposed by SMC must be reviewed by the Forest Service representative and approved in advance by the District Ranger or designated representative prior to such modifications occurring. On-site review will be conducted by a Forest Service Representative to ensure ground disturbance, such as site-leveling and tree-felling, is minimized and sensitive areas, such as wetlands, riparian habitat, sensitive plants populations, and heritage resources are avoided whenever possible. The intent of the site

preparation and access procedures prescribed in the Plan of Operations and this Decision Memo is to minimize effects to surface resources and facilitate timely reclamation of the sites. In the event that a Forest Service representative and the District Ranger determine that these procedures cannot be effectively applied, the District Ranger will not approve the proposed modifications.

Reclamation Conditions of Approval:

2. **Reclamation Bonds:** Required reclamation bonds as determined by the Forest Service and MDEQ for specific work items under this Plan of Operations will be posted and obligated with the MDEQ prior to commencement of activities described in this Plan of Operations. Exploration activities may not be performed until the reclamation bond(s) for that specific activity are received and deemed acceptable by the Forest Service and MDEQ.
3. **Reclamation monitoring:** In the event of observed post-reclamation noxious weed or site stability problems, the 3 year monitoring period will be re-started after corrective actions have been taken.

Recreation and Aesthetics Conditions of Approval:

4. **Recreation and aesthetics:** During the summer use season (from Memorial Day to Labor Day weekends):
  - a. Allow for public utilization of roads, dispersed recreation sites and public access in the project areas to the extent possible while not compromising safety of the public or mineral exploration workers.
  - b. The Benbow mill site area will not be used as a helicopter staging area on weekends.
  - c. Limit operations during evening hours and weekends that require use of roads to week days to the extent possible.

Water and Aquatic Resources Conditions of Approval

5. **State of Montana Water Rights:** Any new water rights should be filed as necessary by SMC for both the USFS and SMC, as the USFS is the property owner that allows the diversion and use of the water on the Custer National Forest.
6. **Intermittent stream protection:** Drill sites and other areas with ground disturbance will be located a minimum of 300 feet from all intermittent streams. Any exceptions to this distance will be applied only upon the site-specific approval by the Forest Service Representative in consultation with Forest Service fisheries or hydrology specialists if necessary.
7. **Stream flow:** In the event that pumping water from surface waters may completely dewater that water body, SMC will leave some flowing water in the stream channel immediately downstream of the Point of Diversion.
8. **Hazardous Substances:** Report all spills of hazardous substances to the Forest Service representative, regardless of quantity.

Wildlife Conditions of Approval:

9. **Helicopter flight restrictions:** To minimize wildlife disturbance and relocation:
  - a. Limit daily helicopter flights at elevations less than 500 meters above ground surface;
  - b. Limit the number of helispots;
  - c. Adhere to designated flight routes and timing restrictions as shown on Figures 2 and 3. For grizzly bear protection, flights along the Summer Helicopter Route may take place only from June 15 through September 1). The fall Helicopter Route is to be used from September 2 to June 14.

10. **Lynx or wolverine observations:** Any lynx or wolverine observations will be reported to the Forest Service representative within 24 hours. It is understood that the Forest Service may require immediate temporary modification of operations if such an action is deemed necessary by the District Ranger to prevent adverse effects to lynx or wolverines.

Plants and Forest Vegetation Conditions of Approval:

11. **Whitebark Pine Protection / FS Sensitive Plants:** Dead or dying whitebark pine trees (i.e., those with yellow or red needles) may be cut if necessary for worker safety or to facilitate placement of equipment. In the event that cutting of mature whitebark pine, including Krumholz, is deemed necessary for drilling operations, prior approval must be obtained from the Forest Service Representative or SMC may be required to propose an alternate location.

Noxious Weeds Conditions of Approval:

12. **Gravel sources:** In the event that gravel is imported onto National Forest System lands to repair damage to roads caused by exploration operations, (a) the Forest Service representative will inspect and approve all gravel and borrow sources before use and transport. If weeds are present, they should be treated before transport and use; (b) Consider maintaining stockpiled material in a weed-free condition; and (c) Check the area where pit material is used to ensure that no weed seeds are transported to the use site.
13. **Noxious Weeds Observations:** Notify the Forest Service Representative of type and location of noxious weeds encountered on National Forest System lands.

My decision is based on findings from review of the analysis presented in this Decision Memo; review of the desired future condition described in the Forest Plan; review of Forest Plan goals and objectives: Forest-wide standards, applicable management area standards; regulations; experience with similar past projects; best available science; as well as public and technical specialist input during the planning and analysis process.

## **SCOPING AND PUBLIC INVOLVEMENT**

The Forest Service conducted public involvement and environmental analysis for this Plan of Operations. Field review and environmental analysis of SMC's proposal was completed by MDEQ personnel and a Forest Service interdisciplinary team familiar with the proposed action and project area.

Scoping consisted of both internal and external efforts to identify substantive issues and/or concerns related to this Plan of Operations. The "Public Involvement Plan" identified scoping activities for this Plan of Operations (see Project Record). Scoping and public comment opportunity occurred concurrently for a 30 day period, starting with the December 28, 2013 publication of a legal notice in the Billings Gazette newspaper. Scoping and public comment efforts included press releases to area newspapers and posting materials on the Custer National Forest's website. In addition, letters requesting comment were mailed or e-mailed to approximately 79 potentially interested parties, including adjacent landowners, area Forest Service permit holders, and individuals that previously commented on minerals projects on the Beartooth Ranger District.



**Figure 2. Required Blitz 2014 Helicopter Flight Routes Map - Topographic**

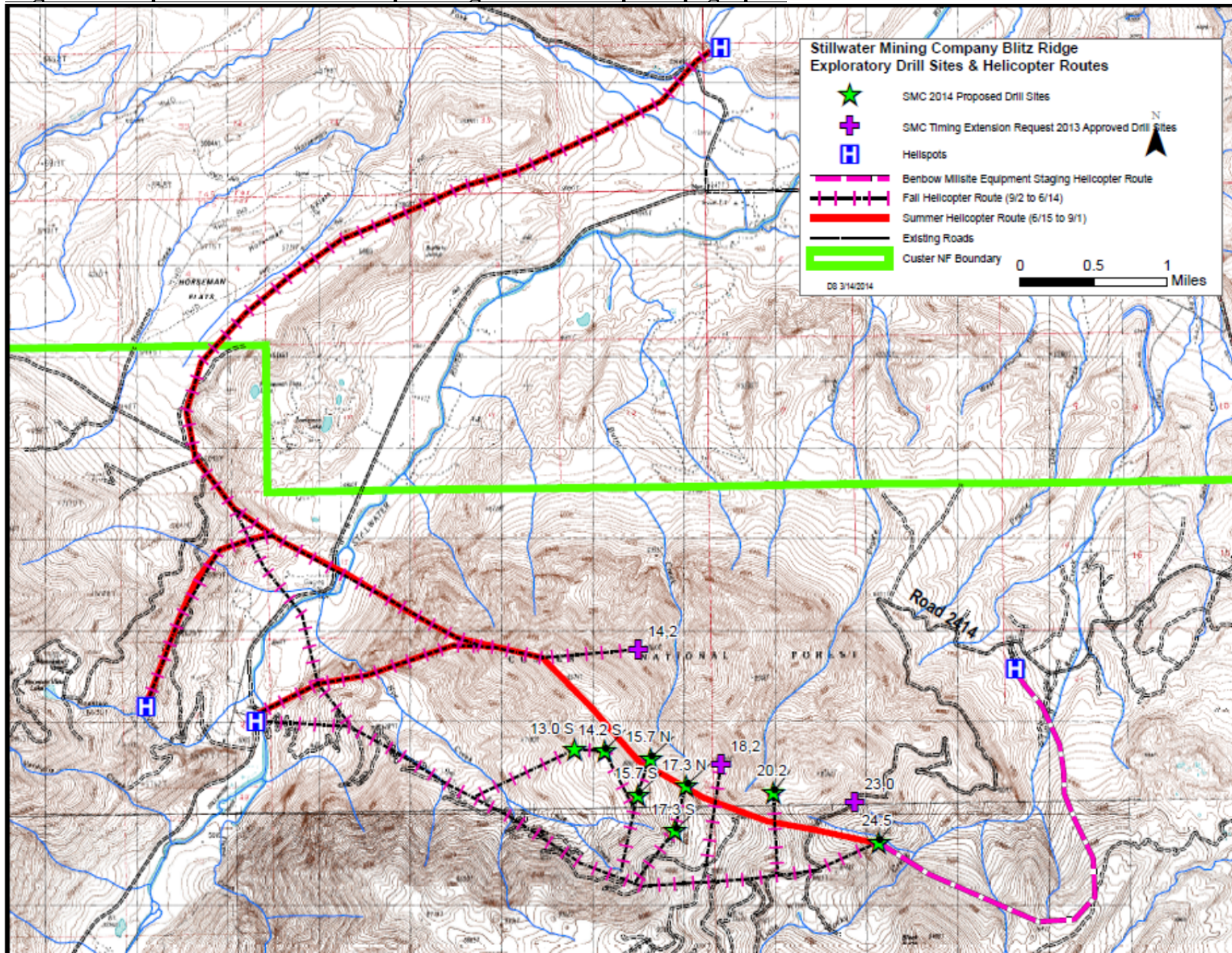
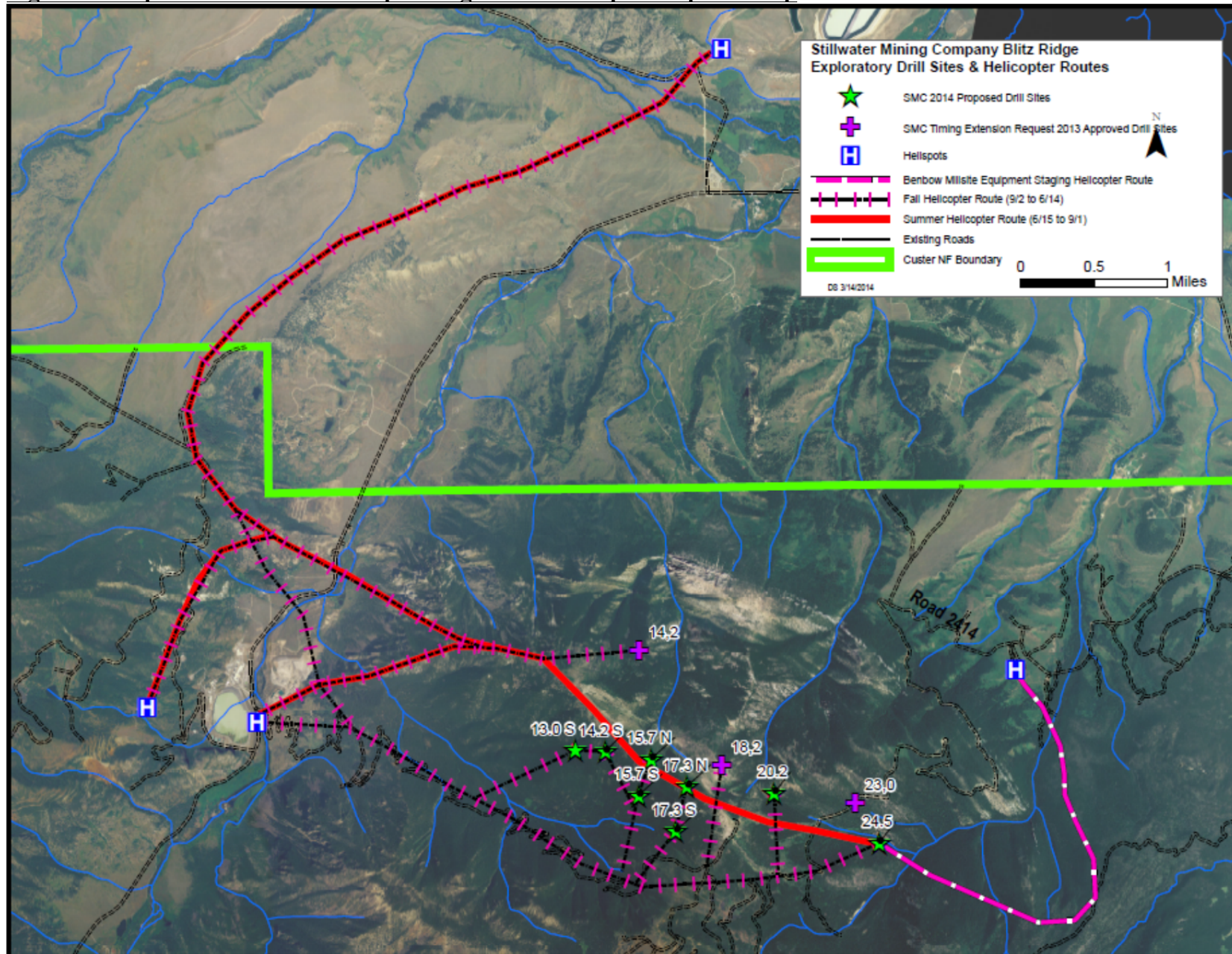




Figure 3. Required Blitz 2014 Helicopter Flight Routes Map – Air photo map



Twenty five responses containing meaningful input were received during the comment period and one comment was received after the comment period. Several requests for information were also received. Copies of comments and information requests are in the project planning record. Content analysis of public comment identified several preliminary issues (see project record). A Forest Service and MDEQ interdisciplinary team and the responsible official reviewed the project, identified issues and concerns, analyzed potential effects, and responded to public issues and concerns. Identified significant and non-significant issues and responses are provided in Decision Memo Appendix B.

## **FINDINGS AND REASONS FOR CATEGORICALLY EXCLUDING THIS ACTION**

The Council on Environmental Quality (CEQ) regulations at 40 CFR 1507.3 provide that agencies may adopt categories of actions that do not normally have significant impacts on the human environment and that do not require preparation of an environmental assessment (EA) or environmental impact statement (EIS). Pursuant to direction provided in 36 CFR 220.6, a proposed action may be categorically excluded from further analysis and documentation in an EIS or EA only if there are no extraordinary circumstances related to the proposed action and if: (1) The proposed action is within one of the categories established by the Secretary at 7 CFR part 1b.3; or (2) The proposed action is within a category listed in 36 CFR 220.6(d) and (e).

Based on environmental analysis of this mineral exploration project, public scoping comments, and requirements at 36 CFR 220.6, my Decision is to approve Stillwater Mining Company's Blitz Ridge – 2014 Surface Exploration Drilling Plan of Operations with modifications and additions. I find that this mineral exploration project:

- is a routine action that fits within a category listed in 36 CFR 220.6 (e): *(8) Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads.*
- will not result in uncertain or significant direct, indirect, or cumulative effects;
- will not have a cause-effect relationship between the proposed action and the degree of potential effects on specific resource conditions listed at 36 CFR 220.6(b), that will result in extraordinary circumstances that warrant further analysis and documentation in an EA or an EIS.

This locatable mineral exploration project was analyzed under the NEPA. In making my Decision, I considered interdisciplinary analysis of past, present, and reasonably foreseeable actions in and adjacent to the drilling area that are potentially relevant to reasonably foreseeable significant adverse impacts. Per regulations at 40 CFR 1508.7 and 36 CFR 220.4(f), the aggregate effects of other past, present, and reasonably foreseeable future actions were also specifically considered. Actions considered and analyzed include past, present, and reasonably foreseeable mining, mineral exploration, oil and gas leasing, recreation use, vegetation management, grazing, water quality impacts, invasive species management, and road use and maintenance activities (see Specialist Reports in Project Record).

My Decision is based on analysis that considered the effects of similar past mineral exploration projects on the Custer National Forest's Beartooth District. Several mineral exploration projects have been

completed by SMC and other operators since 1985. These operations consisted of activities with mitigation and reclamation measures similar to those authorized by my Decision. As documented in the administrative files for past exploration projects (on file at the Beartooth Ranger District), operations and subsequent reclamation of impacts were successfully completed to prevent or control environmental effects and forest surface resources and return areas disturbed by operations to a stable configuration that approximates the original condition to the extent possible. Recent past exploratory drilling resulted in minimal and insignificant impacts and no existence of effects resulting in extraordinary circumstances. Based on analysis in the Project Record, past experience with similar projects, and rationale provided in this Decision Memo, I find that my Decision will not result in significant direct, indirect, or cumulative effects.

Forest Service procedures related to categorical exclusions require a review of “extraordinary circumstances” relating to specific resource conditions (36 CFR 220.6(b)). The mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion (CE). It is the existence of a cause-effect relationship between a proposed action and the potential effect on these resource conditions, and if such a relationship exists, the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist. Based on specific direct, indirect, and cumulative effects analyses (see Project Record), past experience with similar projects, and rationale provided in this Decision Memo, I find that the degree of potential effects of my Decision will not result in extraordinary circumstances. The conclusions of extraordinary circumstances review are as follows:

*Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species*

A project-specific Biological Assessment was completed (see Project Record). This Biological Assessment reviews and discloses the possible effects to threatened, endangered, and proposed species and their habitats. Implementation of the proposed Federal action **MAY AFFECT, BUT IS NOT LIKELY TO ADVERSELY AFFECT** grizzly bears, Canada lynx, and designated critical habitat for the Canada lynx; and is **NOT LIKELY TO JEOPARDIZE THE CONTINUED EXISTENCE** of wolverines. US Fish and Wildlife Service reviewed and concurred with these findings as required by the Endangered Species Act (see Project Record).

Impacts to Region One Forest Service Sensitive terrestrial and aquatic species and rare plants are disclosed in the Biological Evaluation and in Aquatics Input for this project (see Project Record). For Forest Service Region 1 Sensitive Species with suitable habitat or documented occurrence in the cumulative effects area, effects determinations are ***May impact individuals or habitat, but is not likely to cause a trend to Federal listing or loss of viability*** for the American peregrine falcon, bald eagle, gray wolf, fringed myotis, long-eared myotis, long-legged myotis, bighorn sheep, Yellowstone cutthroat trout, western (boreal) Toad, and whitebark pine. Effects determinations are ***No Impact*** for the Northern myotis, Northern Leopard Frog, and numerous other Custer National Forest listed sensitive plant species.

Based on the Biological Assessment, Biological Evaluation, US Fish and Wildlife Service concurrence with effects determinations, aquatics input, project-specific plant surveys, and past experience with similar projects, I find that the potential degree of effects of my Decision will not result in significant adverse effects to or extraordinary circumstances associated with these species or their habitats.

#### *Flood Plains, Wetlands, or Municipal Watershed*

Based on the water resources specialist report completed for this project (see project record), no significant ground-disturbing or sediment-generating activities are proposed in floodplains or wetlands within the project area. No municipal watersheds exist immediately downstream from the proposed activities within the Stillwater River drainage. Therefore, no significant adverse impacts are anticipated for floodplains, wetlands, or municipal watersheds.

The Water and Aquatic Resources Conditions of Approval (see above) should further mitigate any potential impacts to wetlands or floodplains. Based on the water resources specialist report, aquatics input, and prior experience with similar project implementation using similar mitigations and design features, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with Flood Plains, Wetlands, or Municipal watersheds.

#### *Congressionally Designated Areas, such as Wilderness, Wilderness Study Areas, or National Recreation Areas*

A Recreation Technical Specialist Report was completed for this project (see project record). This report specifically considers effects to wilderness and wilderness characteristics. SMC's Plan of Operations does not propose mineral exploration or other activities in Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas. Proposed drill site 17.3 South is approximately 2.3 miles north of the Absaroka-Beartooth Wilderness area. No flight routes are proposed over the Absaroka Beartooth Wilderness Area. Other proposed drill sites are located further from the Absaroka-Beartooth Wilderness area. Because mineral exploration activities authorized by my Decision will not occur in or over a Wilderness, Wilderness Study Area, or National Recreation Area, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with these areas or their related wilderness characteristics.

#### *Inventoried Roadless Area or Potential Wilderness Area*

A Recreation Technical Specialist Report was completed for this project (see project record). This report specifically considers effects to Inventoried Roadless Areas and wilderness characteristics. SMC's Plan of Operations does not propose mineral exploration or other activities in Inventoried Roadless Area or potential wilderness areas. The Fishtail Saddleback Inventoried Roadless Area is approximately 1/3 mile south of the nearest drill site. No Potential Wilderness Area has been specifically defined or designated in this area. No flight routes are proposed over the Fishtail Saddleback Inventoried Roadless Area. Because no Inventoried Roadless Area or Potential Wilderness Area will be significantly affected by or lies in the immediate vicinity of the mineral exploration activities authorized by my Decision, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with these areas.

#### *Research Natural Areas*

Because no Research Natural Area, existing or nominated, will be affected by or lies in the vicinity of the mineral exploration activities authorized by my Decision, I find that the degree of effects of my Decision will not result in extraordinary circumstances associated with Research Natural Areas.

#### *American Indian and Alaska Native religious or Cultural Sites*

Cultural resource surveys have been completed for areas where activities for this decision are authorized and no impacts to these resources are predicted. No extraordinary circumstances associated with American Indian or Alaska Native religious or cultural sites are anticipated.



### Archaeological Sites, or Historic Properties or Areas

Cultural resource surveys have been completed for areas where SMC's activities are authorized. No archaeological sites were noted. The Benbow millsite is a historic property deemed eligible for listing in the National Register of Historic Places. The Montana State Historic Preservation Office agrees with the Forest Service's determination that temporary use of the parking lot area as a helicopter staging area will have no effect on the features or characteristics that make it eligible for listing (see project record). No extraordinary circumstances associated with archaeological sites or historic properties or areas are anticipated.

## **FINDINGS REQUIRED BY OTHER LAWS**

### National Forest Management Act of 1976 and the Custer Forest Plan

I find that my Decision is consistent with the *Custer Forest Plan* as required by the National Forest Management Act (NFMA). Forest-wide Minerals and Geology Management Standards include:

- *"The Forest will coordinate and cooperate with local, state, and other federal agencies, as needed, to facilitate the development of mineral resources occurring beneath lands administered by the Forest Service and to minimize the environmental and socio-economic impacts associated with the extraction and marketing of those resources."*
- *"Exploration and development of minerals will be facilitated subject to the General Mining Law of 1872 and subsequent regulations in 36 CFR 228 developed by the Secretary of the Agriculture."*

SMC's exploratory drilling is authorized to occur in Forest Plan Management Area E. I find that my decision complies with the Management Area E goal *"To facilitate and encourage the exploration, development and production of energy and mineral resources from the National Forest System lands."* Some helicopter use is authorized to occur in and over Forest Plan Management Area B. I find that my decision complies with the Management Area B goal *"To provide for the continuation of livestock grazing, implementation of intensive range management systems and the facilitation of minerals and energy development with consideration of other resource needs."* Compliance with other resource-specific Forest Plan goals, objectives, and standards is evaluated in various technical specialist reports completed for this project (see project record). Based on these reports, approval of this Plan of Operations complies with applicable Forest Plan goals, objectives, and standards.

Per the NFMA, species identified as "Sensitive" that are known or suspected to occur on the Custer National Forest were analyzed as discussed above in the Extraordinary Circumstances section of this Decision Memo.

Impacts to Custer Forest Plan Management Indicator Species are disclosed in the Biological Evaluation and fisheries input (see Project Record). Management Indicator Species (MIS) and Key Wildlife Species with suitable habitat in the project area or that have been documented in the cumulative effects area are northern goshawk, big game (mule deer, white-tailed deer, elk, and moose), ruffed grouse, yellow warbler, ovenbird, and golden eagle. Project effects determinations for these MIS is ***Neutral***. For Northern Goshawk, cumulative effects **may impact individuals or habitat, but will not likely contribute to a trend towards federal listing or loss of viability**. Yellowstone cutthroat trout and bighorn sheep are Forest Plan MIS and are addressed above as Forest Service sensitive species.

I find that activities approved by my decision are consistent with applicable Forest Plan goals, objectives, and standards.

#### Endangered Species Act of 1973

In accordance with the Endangered Species Act (ESA), Forest Service Manual 2670, and Forest Service Region 1 Policy, this proposed action was analyzed for potential effects to Threatened, Endangered, and Sensitive wildlife and plant species (see Extraordinary Circumstances discussion above). A Biological Assessment for this project was completed (see Project Record). US Fish and Wildlife Service reviewed effects determinations through the informal consultation process and has concurred with the Biological Assessment findings for threatened species as required by the Endangered Species Act and related policy (see Project Record).

#### National Historic Preservation Act of 1966

The National Historic Preservation Act of 1966 as amended requires that areas held in Federal ownership must be surveyed for the presence of Cultural Resources prior to ground disturbance. Cultural resource surveys have been completed for areas where SMC's activities are authorized and no impacts to these resources are predicted. The Benbow millsite has been deemed eligible for listing in the National Register of Historic Places. The Montana State Historic Preservation Office agrees with the Forest Service's determination that temporary use of the parking lot area as a helicopter staging area will have no effect on the features or characteristics that make it eligible for listing (see project record).

### **OTHER LAWS OR REQUIREMENTS**

Approval of this operating plan does not constitute recognition or certification of ownership by any person named as owner therein. Approval of this operating plan does not constitute now or in the future recognition or certification of the validity of any mining claim to which it may relate or to the mineral character of the land on which it lies.

Based on coordination with and review by the MDEQ, exploration activities authorized by my Decision will be in compliance with the Rules and Regulations governing the Montana Hard Rock Mining Reclamation Act (Annotated Rules of Montana 17.24.1 to 17.24.189) and the Montana Metal Mine Reclamation Act (Montana Code Annotated 2011, Title 82, Chapter 4, Part 3). Additionally, no specific exploration activities will occur until reclamation bonds are submitted for those specific activities to the MDEQ.

Based on potential effects disclosed in the water resources report and aquatics input, I find that this Decision is consistent with requirements of the Forest and Rangeland Renewable Resource Planning Act of 1974, the National Forest Management Act of 1976, the Federal Clean Water Act, 36 CFR 228a, Presidential Executive Orders (# 12962, #11990, and #11988), Montana Water Quality Law/Surface Water Quality Standards, the Montana Metal Mine Reclamation Act, and the Rules and Regulations Governing the Montana Hard Rock Mining Reclamation Act.

I find that this Decision is consistent with all other applicable Federal, State, and local laws or requirements.

## **ADMINISTRATIVE REVIEW or APPEAL OPPORTUNITIES**

On December 28, 2013, a legal advertisement was published in the Billings Gazette newspaper indicating that the Forest Service would provide public notice, comment, and opportunity for administrative appeal for projects and activities documented with a "Decision Memo." Due to recent legislation, this Decision Memo is no longer subject to Administrative Review or Appeal Opportunities.

On January 17, 2014, the President signed into law the Consolidated Appropriations Act of 2014 (Pub. L. No. 113-76). Section 431 of that Act directs that the 1992 and 2012 legislation establishing the 36 CFR 215 (post-decisional appeals) and 36 CFR 218 (pre-decisional objections) processes “shall not apply to any project or activity implementing a land and resource management plan ... that is categorically excluded ....under the National Environmental Policy Act [NEPA].” On February 7, 2014, the President signed into law the Agricultural Act of 2014 (Farm Bill) (Pub. L. No. 113-79). Section 8006 of the 2014 Farm Bill repealed the Appeals Reform Act (ARA) (Pub. L. No. 102-381). The ARA’s implementing regulation was 36 CFR 215. The 2014 Farm Bill also directs that the pre-decisional objection process established in the Consolidated Appropriation Act of 2012 shall not be applicable to categorically excluded projects or activities.

As a result of these two statutes, the Forest Service no longer offers notice, comment and appeal opportunities pursuant to 36 CFR 215 for categorically excluded projects. To achieve an orderly shutdown of appeal opportunities under 36 CFR 215, the Forest Service Chief directed that the Agency accept and consider all timely submitted public comments received in response to a Forest Service legal notice issued pursuant to 36 CFR 215.5 and published on or before March 5, 2014. Similarly, the Appeal Deciding Officer will accept and conduct an appeal review and disposition where legal notice of a decision memo was published in the newspaper of record on or prior to March 5, 2014.


I have accepted and considered all timely submitted public comments received in response to the December 28, 2013 legal notice (see Public Scoping Period Comment Content Analysis in Project Record and Decision Memo Appendix B). Since I am making this decision after March 5, 2014, I cannot offer appeal opportunities for this project and will not publish a legal notice of the decision memo in the newspaper of record. This Decision Memo is not subject to Administrative Review or Appeal Opportunities.

## **IMPLEMENTATION DATE**

Implementation of the decision may begin immediately. Only activities for which reclamation bonds are posted and allocated with MDEQ are authorized to occur.

## CONTACT PERSON

Any questions related to this project or decision should be directed to Dan Seifert, Assistant Forest Geologist, US Forest Service, 6811 Highway 212, Red Lodge, MT. 59068, phone (406) 446-2103, e-mail [comments-northern-custer-beartooth@fs.fed.us](mailto:comments-northern-custer-beartooth@fs.fed.us). A Project Record containing additional information supporting the environmental analysis and findings in this Decision Memo has been prepared and is available for public review at the Beartooth Ranger District. Interested individuals may review the Project Record by scheduling a visit in advance with Mr. Seifert.

  
TRAUTE PARRIE  
District Ranger

6/12/14  
Date

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[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr215\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title36/36cfr215_main_02.tpl)

36 CFR 220. Title 36 Parks, Forests, and Public Property, Part 220—National Environmental Policy Act (Nepa) Compliance. Available online at: [http://ecfr.gpoaccess.gov/cgi/t/text/text-](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1b36ca1352714676c863564eeeeeba5e&rgn=div5&view=text&node=36:2.0.1.1.9&idn)

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36 CFR 228a. Title 36 Parks, Forests, and Public Property, Part 228, Subpart A. Locatable Minerals.

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Annotated Rules of Montana 17.24.101 to 17.24.189. *Rules and Regulations Governing the Montana Hard Rock Mining Reclamation Act*. Available online at: <http://deq.mt.gov/hardrock/LawsRules.mcp>



Czamanske, G., Zientek, M., 1985. The Stillwater Complex, Montana: Geology and guide, Reprint 2002, Montana Bureau of Mines and Geology: Special Publication 92, 396 p., 4 sheet(s).

Executive Order 11988 of May 24, 1977, appear at 42 FR 26951, 3 CFR, 1977 Comp., p. 117.

Available online at: <http://www.archives.gov/federal-register/codification/executive-order/11988.html>

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USDA 1986. *Custer National Forest Land and Resource Management Plan (Forest Plan)*. U.S.

Department of Agriculture, Forest Service. Custer National Forest. Billings, MT. Available online at:

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